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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,952	08/09/2001	Charlton Clinton Tooke III	11963-002001	2009
26171	7590	11/17/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			PASS, NATALIE	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/924,952	Applicant(s) TOOKE, CHARLTON CLINTON	
	Examiner Natalie A. Pass	Art Unit 3626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 1-11, 13-33 and 35-42.
- Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


 JOSEPH THOMAS
 SUPERVISORY PATENT EXAMINER

Continuation of 7:

i. With respect to Applicant's request to change the title of the invention, Examiner respectfully refers Applicant to consult 37 CFR 1.121, (Manner of making amendments in application), which provides the requisite steps to amend the specification.

ii. With respect to Applicant's arguments on pages 9-13 that features in the Application are not taught or suggested by the applied references, Examiner respectfully disagrees. In response, all of the limitations which Applicant disputes as missing in the applied references have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Deavers, Kenna, Barber, and Henley, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the prior Office Action (paper number 20060816), and incorporated herein. Specifically, Examiner notes that the recited features of "opening a health savings account, comprising a nontaxable section and a taxable section" and "wherein the taxable section of the health savings account is placed in an investment vehicle," as recited in claim 1, are taught by the combination of applied references. In particular, Examiner interprets Deaver's teachings of "... if for regulatory or other reasons, or governmental reasons, there is a dollar cap on the amount of money that can be paid with certain tax advantages into a medical insurance fund, and a participant wishes to put in a larger amount or make a prepayment in a single lump sum which would produce larger amounts, then the method and the system of the invention would identify the regulatory or tax advantage and segregate the moneys put in into a first mutual fund account, which would contain the maximum permitted by regulation or law and a second mutual fund from which money would be periodically transferred as the amount in the first account would fall below the maximum permitted by regulation or law. Both accounts of course would be income bearing. One or both of the accounts might be tax free income" (Deavers; column 10, lines 23-37)" as teaching a user's account that is not a single entity, but rather multiple entities or categories or buckets and further where one of the accounts might be tax-free or nontaxable, and therefore as teaching the argued limitations.

iii. With respect to Applicant's arguments that the Kenna reference fails to teach a taxable section and a nontaxable section of a medical savings account, this has been discussed above as at least being taught by the Deavers reference.

iv. With respect to Applicant's arguments with regards to the Kenna reference's teachings of "wherein the taxable section of the health savings account is placed in an investment vehicle," Examiner notes that the Kenna reference teaches enabling "an individual to delineate short and long term assets into a composite account with a single master account and a number of subaccounts which are linked within the composite account. It is another feature of the present invention to allow individuals in the same household or family to create a single composite account for all their funds" (Kenna; column 3, lines 35-41) and "the present subaccount system provides an account which includes at least one master account having one or more functional capabilities such as check writing, credit/debit card management, access to brokerage services, etc. The master accounts are linked to one or more nested subaccounts which are separately directed to a subset of features falling within the master account, said features corresponding to the specific needs associated with the purpose of that subaccount. Record keeping between the master and its associated subaccounts is done on an integrated basis as each subaccount is specifically linked and controlled by the parameters associated with its master" (Kenna; column 3, lines 55-67) and "the subscriber may keep any unexpended funds in his MSA. Test 1075 in FIG. 9C determines if there are such funds, and block 1080 automatically sweeps these funds into a long-term investment vehicle, such as a money market or any other investment account offered by the administrator, in accordance with the subscriber's pre-authorized instructions. IN this way, the subscriber's liquid assets are consistently invested in an investment vehicle that meets the client's risk tolerance model" (Kenna; column 13, lines 45-55). Examiner interprets these teachings of a user account containing subaccounts which are "separately directed," and from which funds originating in different categories can be placed into investment vehicles, as teaching the argued limitations.

Continuation of 11. does NOT place the application in condition for allowance because:

The pending claims have not been amended. As such, the recited claimed features would be rejected for the same reasons given in the prior Office Action (paper number 20060816), and incorporated herein.